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Report by Mr. Glélé-Ahanhanzo, Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, submitted pursuant to Commission on Human Rights resolution 1997/73

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I. INTRODUCTION

1. In pursuance of the mandate conferred on him by Commission on Human Rights resolution 1993/20 and extended for a period of 3 years by resolution 1996/21, the Special Rapporteur submitted a report and two addenda (E/CN.4/1997/71/ and Add.1 and 2), covering his activities during 1996, to the fifty-third session of the Commission. He also submitted, in pursuance of the above-mentioned resolutions and General Assembly resolution 51/81, a report to the General Assembly at its fifty-second session (A/52/471).

2. In its resolution 1997/74 concerning measures to be taken to combat contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the Commission on Human Rights took note of the above-mentioned reports and requested the Special Rapporteur to continue his exchange of views with member States and the relevant mechanisms and treaty bodies in order to enhance further their effectiveness and mutual cooperation. The Commission also repeated its request to the Secretary-General to provide the Special Rapporteur with all the necessary assistance and resources to carry out his mandate, in particular to enable him to submit an interim report to the General Assembly at its fifty-second session and a comprehensive report to the Commission at its fifty-fourth session.

3. This report is submitted in response to that decision by the Commission. For purposes of its preparation the Special Rapporteur received, in response to his requests, communications from a certain number of States and reports from non-governmental human rights organizations. As in the past, he also drew on unofficial sources, and in particular reliable international press sources, to make up for the shortcomings due to lack of cooperation on the part of the majority of States.

4. This report comprises six sections, dealing respectively with: (1) the activities of the Special Rapporteur since the previous session of the Commission; (2) significant events occurring in the fields covered by the Special Rapporteur's mandate; (3) contemporary manifestations of racism, racial discrimination, xenophobia and related intolerance; (4) replies to allegations transmitted to Governments by the Special Rapporteur; (5) replies received from Governments and non-governmental organizations in response to the Special Rapporteur's general request for information; and (6) the situation with regard to the implementation of Commission resolution 1997/74. The report ends with conclusions and recommendations.

II. ACTIVITIES OF THE SPECIAL RAPPORTEUR

5. On 18 April 1997 the Commission on Human Rights adopted resolution 1997/74 and decision 1997/125.

A. Resolution 1997/74 of 18 April 1997

6. On 18 April 1997, following its consideration of the issue of racism, racial discrimination, xenophobia and related intolerance, the Commission on Human Rights adopted resolution 1997/74. That resolution deals with the

following subjects: implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination and coordination of related activities; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and follow-up to his visits; the International Convention on the Elimination of All Forms of Racial Discrimination; and the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

7. As regards the Special Rapporteur, the Commission on Human Rights, among other things, took note of his reports (E/CN.4/1997/71 and Add.1 and 2); expressed its full support and appreciation for his work and for its continuation; requested the Special Rapporteur to continue his exchange of views with member States and the relevant mechanisms and treaty bodies within the United Nations system in order to enhance further their effectiveness and mutual cooperation; called upon all Governments, intergovernmental organizations and other relevant organizations of the United Nations system, as well as non-governmental organizations, to supply information to the Special Rapporteur; urged all Governments to cooperate fully with the Special Rapporteur with a view to enabling him to fulfil his mandate; and requested the Secretary-General to provide the Special Rapporteur, without further delay, with all the necessary assistance and resources to carry out his mandate and enable him to submit an interim report to the General Assembly at its fifty-second session and a comprehensive report to the Commission at its fifty-fourth session. The report was submitted to the General Assembly on 6 November 1997 (A/52/471).

B. Decision 1997/125 of 18 April 1997

8. Several delegations of member States of the Organization of the Islamic Conference (OIC) reacted strongly to a passage in the Special Rapporteur's report (E/CN.4/1997/71, para. 27, sect. 3), which they considered as blaspheming the Koran. The Committee then took decision 1997/125 deleting the final sentence of section 3 of paragraph 27 of the report.

9. The Special Rapporteur, when informed of the incident, explained that the passage in question was an extract from a document by the Israeli Government on major trends and manifestations of anti-Semitism throughout the world.

10. As for the reference in the report to anti-Semitism, the Special Rapporteur pointed out that it was the resolutions of the Commission on Human Rights which made a distinction between anti-Semitism and other forms of racial discrimination of which Arabs and Muslims might be the victims.

11. Following various consultations, in particular with the current Chairman of OIC and representatives of the Israeli Government, a corrigendum was published as follows: "Delete the final sentence of section 3 of paragraph 27 of the report E/CN.4/1997/71 ... The rest of the section remains unchanged" (E/CN.4/1997/71/Corr.1, 8 July 1997). Finally, since the discussions had a theological basis, the Special Rapporteur on racism and racial discrimination referred them to the Special Rapporteur on religious intolerance.

C. Participation in the fifty-second session of the General Assembly

12. The Special Rapporteur took part in the proceedings of the fifty-second session of the General Assembly, held in November 1997. In his statement the Special Rapporteur drew the attention of the Assembly to the increasing incidence of discrimination against foreigners; that trend was closely linked to the worldwide economic crisis, which was particularly affecting developing countries. He stressed the need for adoption at international level of measures to combat racist propaganda disseminated through modern communication media such as the Internet. He asked the General Assembly to request member States to cooperate with him in the discharge of his mandate and to recommend the convening of a World Conference on Racism.

D. Participation in the European Year Against Racism

13. At the invitation of the organizers, the Special Rapporteur took part in a seminar on racism and immigration, held in Venice in October 1997, and in an international colloquium on racism and the law organized by Paris-X-Nanterre University and held in Paris in December 1997. His statements will be reproduced in the records of proceedings of these highly instructive meetings, which enabled him to describe the work of the United Nations in the struggle against racism, racial discrimination, xenophobia and anti-Semitism.

E. Missions under consideration by the Special Rapporteur

14. After the fifty-third session of the Commission on Human Rights, the Special Rapporteur had considered undertaking missions to Australia and South Africa.

(i) Australia

15. In his most recent report to the Commission on Human Rights (E/CN.4/1997/71), the Special Rapporteur stated that he had written to the Australian Government regarding two communications which he had received in 1996 and which concerned allegations of a rise in racism and xenophobia, particularly towards Aborigines and Australians of Asian origin. He had written to the Australian Government to inform it of his intention to undertake a mission in that country. The Government replied positively on 25 August 1997. The Special Rapporteur welcomes this invitation from the Australian Government and plans to carry out his mission as soon as possible, either in January or May 1998, according to modalities still to be worked out between the Australian Government and himself.

(ii) South Africa

16. During the fifty-third session of the Commission on Human Rights, several representatives of non-governmental organizations reported on the disquieting situation in South Africa, attributable, inter alia, to the legacy of apartheid, inter-ethnic conflicts and problems related to massive immigration. The Government had imposed restrictions on immigration which several organizations considered to be discriminatory towards foreigners. In order to assess the situation in person, the Special Rapporteur had

contemplated undertaking a mission to that country in August 1997. The Office of the United Nations High Commissioner for Human Rights/Centre for Human Rights had approached the Permanent Mission of South Africa in Geneva to that end; a reply from the South African Government dated 29 October 1997 reached the Office of the High Commissioner on 11 November 1997; however, the Special Rapporteur had already submitted his report to the General Assembly on 6 November 1997. The Special Rapporteur welcomes the opportunity to visit South Africa in February, as proposed by the South African Government.

III. SIGNIFICANT EVENTS OCCURRING IN THE FIELDS COVERED BY THE SPECIAL RAPPORTEUR'S MANDATE

17. A number of events or meetings, both official and unofficial, have been organized on subjects falling specifically within the mandate of the Special Rapporteur, namely contemporary forms of racism, racial discrimination, xenophobia and related intolerance. A distinction should be made between seminars or proceedings of official United Nations bodies and those organized by other international organizations.

18. Specific mention should be made of three seminars deserving of interest from the standpoint of the Special Rapporteur's mandate. The Special Rapporteur either attended those meetings or received the relevant documents.

A. United Nations Seminar on immigration, racism and racial discrimination (May 1997)

19. In the context of the implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination (General Assembly resolution 49/146, annex, para. 7 (e)), the Office of the High Commissioner/Centre for Human Rights organized a seminar on immigration, racism and racial discrimination in Geneva from 5 to 9 May 1997. The purpose of the seminar was to examine the contemporary forms and manifestations of racism and racial discrimination which immigrants must face. The Special Rapporteur did not take part in the proceedings of the seminar; however, he received the texts of some of the presentations made there.

20. In his presentation on globalization and immigration, 1/ Mr. Jean-Pierre Paige, Officer-in-Charge of international trade union relations and activities in the Confédération générale du travail (France), commenting on the restrictive, discriminatory policies of the industrialized countries of the North towards foreign workers from the South, said in particular: "The European Union advocated the free movement of labour, while each country of the Community attempted to restrict immigration, particularly from outside the Community. The United Kingdom continued to give preference to immigrants from the Commonwealth. As for France, migrants from the former colonies were always admitted more easily, then preference began to be given to migrants from countries whose political regimes seemed more favourable. There were also, in France's case, migrants from the overseas departments and territories, whose numbers were not included in the statistics on aliens. The Federal Republic of Germany gave preference to Turkish workers, then to Yugoslav workers (mainly Croats) and to asylum seekers from the Eastern European countries, before finally adopting more restrictive legislation. The United States also pursued an immigration policy guided primarily by its

economic and strategic interests. Its policies towards Israel, the Philippines and China were guided by strategic concerns. As for Mexican immigrants, the opening up of the North American market under the North American Free Trade Agreement (NAFTA) and the opportunity to put pressure on wages made them particularly attractive to United States employers. Nowadays interest is focusing on the 'brain drain', on those highly qualified in the arts, culture and science. The confluence of all these interests has led the United States gradually to increase the overall quota, and that does not include the high proportion of illegal immigration into the country. This policy has also been accompanied by particularly repressive measures against Mexican nationals and those working in the maquiladora industry and in free zones."

21. The record of proceedings of this seminar and its conclusions and recommendations are available for consultation at the Office of the United Nations High Commissioner for Human Rights in Geneva.

B. Cotonou Seminar on all forms of discrimination (June 1997)

22. As part of the activities of the Institute for Human Rights and the Promotion of Democracy ("Democracy in daily life"), which he established in his home country (Benin), the Special Rapporteur organized an international meeting of experts on "all forms of discrimination based on race, nationality, ethnic origin, religion or belief or any other factors in Africa south of the Sahara" in Cotonou on 5 and 6 June 1997, with financial assistance from the United Nations Educational, Scientific and Cultural Organization (UNESCO). The meeting focused on the following subjects: (1) problem areas in the field of discrimination in all its forms in Black Africa; (2) relations between ethnic groups in the Sahel countries; (3) the problems of ethnicity, nationalities and relations between ethnic groups in Central Africa, particularly in the Great Lakes region; (4) discrimination against women and children: the case of Benin (Vidomegons); (5) relations between the peoples of the Gulf of Benin and members of the non-African communities (Europeans, Lebanese, Syrians, Indians, Pakistanis, etc.). The final report of the meeting is available at the Office of the United Nations High Commissioner for Human Rights. In the context of the forthcoming World Conference on Racism and Xenophobia, meetings of this kind should be organized at the subregional and regional levels in other parts of the world.

C. Seminar on the Internet and racism

23. The Office of the High Commissioner for Human Rights organized a seminar on "The role of the Internet in the light of the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination" in Geneva, from 10 to 14 November 1997. Several papers were presented on that occasion on topics which included: (1) racism and racial discrimination on the Internet; (2) prohibition of racist propaganda on the Internet: juridical aspects (national and international measures); (3) technical aspects of screening racist propaganda on the Internet (national and international measures) and (4) elements relating to conduct and good practice for Internet-based materials. The summary records of the seminar, together with its conclusions and recommendations, are available at the Office of the High Commissioner for Human Rights.

D. Work done since the last session

24. The Special Rapporteur was informed of the work done since the last session by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Committee on the Elimination of Racial Discrimination, the Working Group set up by the Commission to deal with the human rights of migrants and the Committee of Ministers of the Council of Europe.

(a) The Sub-Commission on Prevention of Discrimination and Protection of Minorities

25. With regard to the Special Rapporteur's mandate, the Sub-Commission, meeting in Geneva in August 1997, adopted resolution 1997/5 on racism and racial discrimination on 15 August 1997, in which it "notes the work of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and calls upon both member States and the Secretary-General to provide the Special Rapporteur, without delay, with all the necessary assistance and resources to enable him to carry out his full mandate" (E/CN.4/Sub.2/1997/L.11, para. 13).

(b) The Committee on the Elimination of Racial Discrimination

26. The Committee on the Elimination of Racial Discrimination presented its annual report to the General Assembly (A/52/18), reflecting the work of the two sessions held in Geneva, from 3 to 21 March 1997 and from 4 to 22 August 1997 respectively. In his address to the Third Committee, the representative of the Committee asked member States which had not yet done so to ratify the International Convention on the Elimination of All Forms of Racial Discrimination (148 States have either ratified or acceded to the Convention) and called on States parties which had not presented reports during the last five years to do so. He asked the Assembly to recommend that States parties amend article 8, paragraph 6, of the Convention concerning the financing of the Committee and deplored the increasing tendency for certain States, organizations or groups to bring pressure to bear on Committee members, especially those acting also as special rapporteurs on human rights in certain countries.

(c) Working Group on the human rights of migrants

27. In paragraph 3 of its resolution 1997/15 on migrants and human rights, the Commission decided: "to establish, within the approved overall budget level for the current biennium, a working group consisting of five intergovernmental experts, appointed on the basis of equitable geographical representation after consultations with the regional groups, to meet for two periods of five working days prior to the fifty-fourth session of the Commission, with a mandate to:

- Gather all relevant information from Governments, non-governmental organizations and any other relevant sources on the obstacles existing to the effective and full protection of the human rights of migrants;

- Elaborate recommendations to strengthen the promotion, protection and implementation of the human rights of migrants."

28. The Working Group was officially established in Geneva on 17 November 1997. It held its first session from 17 to 21 November. The summary records of its meetings and its conclusions and recommendations may be consulted at the Office of the High Commissioner for Human Rights.

(d) Activities of the Council of Europe

29. As indicated in the Special Rapporteur's last report to the General Assembly (A/52/471), the Council of Europe proclaimed 1997 European Year Against Racism. In that connection, it is worth mentioning the adoption by the Committee of Ministers of that organization, on 30 October 1997, of Recommendation No. R (97) 20 to member States on "hate speech", in which the Committee recommends that Governments:

"(a) take appropriate steps to combat hate speech on the basis of the principles laid down in this recommendation;

"(b) ensure that such steps form part of a comprehensive approach to the phenomenon, which also targets its social, economic, political, cultural and other root causes;

"(c) where they have not done so, sign, ratify and effectively implement in national law the United Nations Convention on the Elimination of All Forms of Racial Discrimination, in accordance with resolution (68) 30 of the Committee of Ministers on Measures to be taken against incitement to racial, national and religious hatred;

"(d) review their domestic legislation and practice in order to ensure that they comply with the principles set out in the appendix to this recommendation."

30. The Special Rapporteur welcomes that normative action by the Committee of Ministers and trusts that member States of the Council of Europe will implement it effectively in their national law. The Council of Europe also informed the Special Rapporteur that it had set up a European observatory on racist and xenophobic phenomena, which should help combat xenophobia and intolerance in Europe. The Committee of Ministers also called for a clause forbidding discrimination to be introduced in European Union treaties. Lastly, the Special Rapporteur has been informed of the entry into force, on 1 February 1998, of the European Framework Convention for the Protection of National Minorities. 2/ Those developments are appreciable and promising.

IV. CONTEMPORARY MANIFESTATIONS OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

31. As in previous reports, the Special Rapporteur wishes to set out below the most salient facts that have come to his notice concerning contemporary manifestations of racism, racial discrimination, xenophobia and related intolerance. These concern discrimination against Blacks (negrophobia);

racism and racial discrimination against Arabs; anti-Semitism; discrimination against the Romanies or Gypsies; discrimination against migrant workers and discrimination and incitement to racial hatred on the Internet.

A. Discrimination against Blacks (negrophobia)

32. In Great Britain, according to a March 1997 report on the British army, deep-rooted racism is said to prevail among the military, mainly aimed against Blacks. In April 1997, for instance, a young black soldier was attacked by 11 of his regimental colleagues, who ill-treated him supposedly to make him "clean and white". Similarly, in August 1997, one of Her Majesty's senior officers was almost court-martialled for denouncing such discriminatory practices and acts in the army, where Blacks are systematically accused of laziness. After finding that such practices did exist, the British Government, on 13 October 1997, launched a campaign against racism and racial discrimination in the areas affected. Prime Minister Tony Blair called for recognition of all talents free of ethnic, racial or religious discrimination, so that Britain could be a "beacon for the world". 3/

33. In the United States, despite progress achieved, in particular thanks to "Affirmative Action", inequalities between Whites and Blacks were still very pronounced in structural, economic, social and cultural respects. According to a report published by Jeune Afrique, that disparity is particularly flagrant in the liberal professions. According to the inquiry, Blacks account for only 1.9 per cent of dentists and 2.5 per cent of architects, but 30 per cent of nursing assistants and 44 per cent of servers. 1/

34. In Italy, insults were allegedly uttered against two black Brazilian international footballers, Cafu and Paolo. Shouts of "Roma white" and "Paolo out" were reportedly heard in the stands. 4/

35. In Sudan, the organization "Christian Solidarity International" (CSI), in a letter to the Special Rapporteur in October 1997, reported the persistence of black slavery. Such practices are said to be increasingly inflicted on Blacks made prisoners in the war which has raged in the country since 1983. The Special Rapporteur transmitted those allegations to the Government of Sudan on 21 November 1997.

B. Racism and racial discrimination against Arabs and Muslims

36. The Special Rapporteur would like to point out that manifestations of racism and xenophobia against Arabs are increasingly accompanied by a form of "Islamophobia". It is therefore difficult to separate acts of racial discrimination from acts of religious intolerance, as each may reinforce or encourage the other. According to the above-mentioned Agence France Presse report, 5/ a recent study on Islam in Great Britain spoke of a resurgence of intolerance against individuals belonging to the Muslim community, especially those of Indian or Pakistani origin. In addition, according to the study carried out by the Runnymede Foundation under the supervision of Professor Gordon Conway, the persons concerned are crowded in unhygienic accommodation, deprived of sanitation. The question of Islamophobia should be referred to the Special Rapporteur on religious intolerance.

37. In Pakistan, according to reports by the International Organization for the Elimination of All Forms of Racial Discrimination, dated 19 September 1997, the Mohajirs, who are refugees who came from India at the time of partition, are said to be exposed to xenophobic attacks by the Pakistani authorities. According to the organization, they are often illegally dispossessed of their property; at election time, Mohajir candidates are allegedly the victims of acts of violence and their supporters are regularly kidnapped and tortured in secrecy. The Special Rapporteur communicated these allegations to the Government of Pakistan on 21 November 1997.

38. In Bahrain, the non-governmental organization Campaign for Civil Rights in Bahrain, in a letter dated 14 October 1997 to the Special Rapporteur, reported acts of discrimination and xenophobia, mostly encouraged by legislation which discriminates against Shiites in the country. The latter are allegedly excluded from all positions of importance in the State and now account for only 23 per cent of the best-paid civil servants. Shiite students are said to be blatantly kept out of the university, even when they have passed the necessary examinations. The Special Rapporteur communicated those allegations to the Government of Bahrain on 21 November 1997.

C. Anti-Semitism

39. The organization known as International League for Human Rights, in October 1997, sent the Special Rapporteur several allegations concerning the perpetration of anti-Semitic acts in certain countries.

40. In Russia, a neo-Nazi group, which is very active and has a large membership, allegedly controls a large part of Moscow and certain other areas of Russia. The Russkoe Natsionalnoe Edinstov, an extremist organization founded in 1990, is said to be distributing racist material in public gardens and parks, to be inciting to racial violence with full impunity, and to be recruiting adolescents in schools from the age of 13 onwards, in order to train them ideologically and militarily with a view to indoctrinating them to perpetrate such acts. This organization is said to enjoy the implicit support of local authorities.

41. In South Africa, anti-Semitic acts of violence are said to have been perpetrated in particular in the city of Cape Town on 12 July 1997. Still, according to the International League for Human Rights, about 2,500 persons claiming membership of an organization called Muslims against Global Oppression (MAGO), are said to have demonstrated in front of the premises of the Israeli Embassy in Cape Town, shouting anti-Semitic slogans, and then displaying notices insulting the Jews. Other similar incidents are said to have occurred on 14 July in the same city, where a Jewish study centre and library were allegedly set on fire.

42. In Belarus, an anti-Jewish propaganda programme is reported to have been broadcast on State television on 27 July 1997. The programme was said to have contained a scene of a ritual Jewish murder which occurred in 1690.

43. In Slovakia, the Ministry of Education allegedly distributed copies of a book on the History of Slovakia and the Slovaks to primary school teachers.

The work is said to contain information according to which the Jews did not suffer during the Holocaust. The book also reportedly glorifies the Fascist Government which ruled Slovakia during the Second World War.

44. On 21 November 1997, the Special Rapporteur communicated those allegations concerning the perpetration of anti-Semitic acts to the Governments of the Russian Federation, South Africa, Belarus and the Slovak Republic respectively, asking for the facts and, if reports were true, what measures had been taken or were being considered by the competent authorities.

45. On 3 November 1997, the organization UN Watch reported to the Special Rapporteur that the Prime Minister of Malaysia had made a statement, reproduced in the International Herald Tribune, saying that the Jews were jealous of the progress achieved by the Muslims. The same information was allegedly carried by the official Bernama press agency. UN Watch accuses the Government of the country of promoting an anti-Semitic policy. The Special Rapporteur wrote to the Malaysian Government on 21 November 1997, asking for clarifications regarding those allegations.

D. Discrimination against the Roma, Gypsies or travellers

46. In his latest report to the Commission on Human Rights (E/CN.4/1997/71), the Special Rapporteur mentioned cases of racial discrimination against Roma, particularly by skinheads, in Bulgaria, Romania, the Czech Republic and Slovakia. The Special Rapporteur has learnt of other recent acts of violence and atrocities against Roma from documentation provided by the European Roma Rights Centre. The journal put out by the Centre, Roma Rights, reports the following cases: 6/ "In Ukraine, following a resurgence of police brutality against Roma, a Rom was arrested on 4 December 1996 while collecting dead batteries. He was beaten at the police station in Uzhhorod and on his release said that he had been deprived of food for two days. In the same region, on 1 January 1997, police officers invaded the homes of two Roma families on the pretext that they were looking for a thief. Reliable reports indicate that the police officers struck the adult members of the two families and forced two children aged 16 and 10 to stand and recite 'Gypsies are bastards, the best place for them is in the graveyard'. In Greece, police officers swooped on the Roma camp at Ano Liosia in Attica at 6 a.m. on 27 October 1996, on the pretext of arresting a 21-year-old Rom suspected of stealing cannabis. In the suspect's absence, the police officers took his mother and sister hostage. Verbal exchanges took place as a result of the rage felt by the camp's population and stones were thrown at the police. The police reacted with a second incursion. That same day, the Minister of the Interior said that 'the police had been doing their job and that people should not believe what Gypsies said'. In Bulgaria on 2 and 3 February 1997, the newspapers reported 'the deaths of three Roma children from starvation in the town of Stara Zagora'. On 4 February, following an increase in the price of bread, 2,000 Roma demonstrated in the centre of the town of Pazardzhik in protest against the discriminatory policies of the central Government and the local authorities."

E. Discrimination against migrant workers

47. As the Special Rapporteur told the Third Committee of the General Assembly, one of the major problems in the last years of the century is discrimination, which is increasingly affecting foreigners in general and migrant workers in particular in host countries. The globalization of international economic relations has led many countries to take legislative and regulatory measures to protect their domestic labour force, which are discriminatory and xenophobic and disregard the principle of the free circulation of persons. Such practices are especially prevalent in industrialized and even middle-income countries. Most of these countries' legislations are applying more and more restrictions on the entry of southern nationals or persons from outside their regional unions. This policy of national preference often goes hand in hand with a complementary policy of regional, if not racial preference. Thus traditional European host countries have adopted a policy of so-called "concentric circles", which consists in allowing preferential entry to immigrants according to their origin, those from Western countries coming first, followed by nationals of Eastern Europe, etc. Persons not belonging to these two preferential categories are de facto excluded by the subtle system of elimination based on regional preference.

48. To such legislative and institutional difficulties should be added discriminatory acts against established immigrants. These acts often take the form of contemptuous remarks against them, but sometimes also acts of violence leading to injuries and in some cases to death. In previous reports, the Special Rapporteur has given many examples of such incidents. In view of such acts, the situation of vulnerable groups of immigrants, especially women and children, is a matter of great concern. The Special Rapporteur in this regard welcomes the adoption by the Commission on Human Rights of resolution 1997/13 of 3 April 1997, condemning violence against women migrant workers.

F. Discrimination and incitement to racial hatred on the Internet

49. In previous reports, the Special Rapporteur drew attention to an upsurge in the number of racist and xenophobic acts occurring on the Internet. A report distributed at the seminar on the subject organized by the Office of the United Nations High Commissioner for Human Rights in November 1997 drew up a list of over 100 extremist, especially neo-Nazi sites and servers, advocating white supremacy, "white power" and inciting racial hatred. For example, the White Aryan Nationalists, supporters of the Ku Klux Klan, call for the defence of the Aryan race, which they maintain is threatened by immigration from the third world (source: http://home.worldcom.ch/e fischer/d/artghe html). In Switzerland, the "hammer skins" offer an electronic newspaper on the web. For them, "terrorism is just another form of political action" and in order to "clean up the planet, it has to be cured, that is, purified by eliminating all Blacks, Jews and Arabs".

50. Although the States have now become aware of the dangers these acts represent, very few efforts have been made to combat the phenomenon. The States which have adopted legislation have done so rather in isolation. In his last report, the Special Rapporteur already mentioned the case of Germany (A/52/471). The case of Switzerland may now be added, as the country recently added a new article 261 bis to its Penal Code, forbidding all racist

propaganda, including by electronic means. In October 1997, the Swedish Government adopted a bill on liability arising from the use of the Internet. While the Special Rapporteur welcomes such national initiatives, he remains convinced that only globally concerted action will be effective enough to halt the tendency to use the Internet for racist and xenophobic purposes, in view of the global, cross-frontier nature of that type of activity. Since the Internet network is only a technical medium, like the press, might it not be possible, in conformity with articles 4 and 5 of the International Convention on the Elimination of All Forms of Racial Discrimination, to adopt appropriate legislation, on a country-by-country basis, against incitement to hatred and racial discrimination? That would still leave the problem of identifying the server, but the solution does not appear to be out of reach. It has already been tried in some countries. The matter deserves further thought.

51. In addition to international legislation and regulation, the international community should undertake positive action to combat the abusive exploitation of the Internet on its own ground, that is, by using the Internet itself to broadcast anti-racist and anti-xenophobic messages, and even to spread human rights education against racism. In that connection, the Special Rapporteur was informed that the Council of Europe had adopted a strategy along those lines. The following passage appears in a Council of Europe document entitled "Combating racism and intolerance: discover the site www.ecri.coe.fr": "While racism and related problems are centuries old, the ways in which they are manifested has undergone change. Thus, one of the major problems today is how to control the spread of racist and other offensive material on the Internet. In launching this Website, the Council of Europe intends to counter this development by using new technology for a positive purpose: to communicate and share its anti-racist message, as widely as possible, improving cooperation among people of mutual interests and working towards common goals. With the Website, both the Council of Europe's longstanding action against racism and its more recent intensified activity in this field, can be accessed by a wider public. Such outreach is clearly an essential objective in effectively combating this phenomena. The range of information available - including international legal texts, summaries of relevant national legislation and 'good practices' in policy measures in members States, guidance on conducting a campaign, initiatives in education and the media as well as a listing of the principal agencies active in the fight against racism - will interest a wide variety of people with different professional backgrounds. The attractive use of graphics and video clips can further stimulate the interest of a younger audience. The Website is not, however, simply an electronic resource library. Through its Forum, users of the site can exchange information, contribute comments, critiques and ideas. In this way, the site will continually evolve, necessarily reflecting the diversity of experiences, needs, objectives and cultures of its users. It will strengthen democratic security in Council of Europe member States and, let us hope, well beyond its borders at the dawn of the next millennium." 7/

52. The Special Rapporteur welcomes the Council of Europe's initiative and hopes that its action will be extended to the international community through the Office of the High Commissioner for Human Rights, as part of the Third Decade to Combat Racism and Racial Discrimination.

V. REPLIES TO ALLEGATIONS TRANSMITTED TO GOVERNMENTS BY THE SPECIAL RAPPORTEUR

53. In accordance with established practice, the Special Rapporteur, when receiving allegations of racism, racial discrimination, xenophobia and anti-Semitism, transmits them to the Governments concerned and expects a reply within three months. In the absence of a reply, or if he believes the reply received to be complete, he brings the information in his possession to the attention of the Commission, together with his comments. In 1996 and 1997 (September), the Special Rapporteur transmitted allegations of racist incidents, racial discrimination, xenophobia and anti-Semitism to the following Governments: Angola, Australia, Austria, Belgium, Canada, Côte d'Ivoire (twice), France, India, Indonesia, Israel, Italy, Japan, Mauritania, the Russian Federation, Sudan and the United States of America. In his previous report (E/CN.4/1997/71), the Special Rapporteur mentioned the content of those allegations and the fact that most of the Governments had failed to reply. The situation was unchanged when he drew up his last report to the General Assembly. Meanwhile he has received replies from the Governments of five countries, namely Belgium, India, Italy, Japan and Spain.

(a) Belgium: Communication dated 26 September 1997

54. The Special Rapporteur has transmitted to the Belgian Government allegations concerning the expulsion of undocumented aliens from Belgium to Côte d'Ivoire that he received from the Ligue des droits de l'homme (Belgium, Francophone section). This organization brought to the Special Rapporteur's attention information concerning the expulsion of undocumented aliens from Belgium to Côte d'Ivoire through the intermediary of a private firm, namely, Budd. The information was culled from a work by Mr. Chris de Stoop entitled "Vite, rentrez les linge! L'Europe et l'expulsion des 'sans-papiers'". 8/

Reply from the Belgian Government

55. The Belgian Government has transmitted to the Special Rapporteur a preliminary reply concerning these allegations and will probably furnish a fuller reply at a later date. The Belgian Government's reply dated 27 November 1997 was as follows:

> "(a) The Aliens Section of the Belgian Ministry of the Interior used Budd's services 350 times between 1994 and October 1996.
>
> "(b) The Aliens Section has not used this firm since that date as it considered that monitoring procedures should be better organized.
>
> "(c) Private airline companies continue, on their own responsibility, to use Budd's services in discharging their responsibilities as carriers, in respect of clandestine passengers.
>
> "(d) The task entrusted to Budd by the Aliens Section does not involve subcontracting deportations since expulsion decisions are taken by the authorities, and specifically by the gendarmerie; the firm's functions are confined to providing administrative assistance in obtaining identity and travel documents or paying the stopover costs of

the persons concerned in the Abidjan transit area; the persons concerned are invariably expelled to their country of origin and are not, therefore, abandoned to their fate; these persons are taken back by Belgium if they are unable to proceed from Abidjan to the country of which they are nationals; pending the continuation of their journey they remain in the transit area at Abidjan airport under the supervision of the Côte d'Ivoire authorities and are not entrusted to the Budd firm."

Special Rapporteur's observations

56. The Special Rapporteur is grateful to the Belgian Government for its cooperation and its prompt reaction to his request. However, and pending the receipt of the fuller reply promised, he is extremely concerned by the practices described above, even in the way they are presented by the Government. He is also awaiting the reactions of the Ivorian Government.

(b) India: Communication dated 20 December 1996 and reminder dated 18 August 1997

57. The Special Rapporteur was informed of the situation of the untouchables in India in communications from three organizations, namely, the Ambedkar Centre for Justice and Peace, the World Council of Churches and the Dalit Liberation Education Trust (E/CN.4/1997/71). He communicated these allegations to the Indian authorities, which replied to him on 30 September 1997.

Reply from the Indian Government

58. In substance, the Indian Government rejects the allegations that it tolerated untouchability and closed its eyes to the human rights violations of protected castes. The reply contains a list of the measures taken in this regard with a view to curbing discrimination between castes and maintains that a practice that is so old cannot be eliminated rapidly.

Special Rapporteur's observations

59. In view of the discrepancy between the facts alleged and the reply of the Indian Government, the Special Rapporteur would like to visit India in order personally to evaluate the actual situation in cooperation with the Government and the communities concerned. The country's authorities will be contacted with a view to arranging this mission.

(c) Italy

60. The Italian Government was informed on 23 December 1996 that, according to information received, a Ghanaian citizen was allegedly beaten by police officers at Leonardo da Vinci International Airport at Fiumicino while in transit between Denmark and Ghana. Furthermore, a woman of Italian nationality but Nigerian origin was allegedly assaulted physically in a xenophobic manner by police officers. She claimed that, when she stated she was an Italian citizen, she was told that "a black woman cannot be an Italian citizen" (E/CN.4/1997/71). The Italian Government replied to the Special Rapporteur on 26 November 1997.

Reply from the Italian Government

61. With respect to the first allegation of police brutality against the Ghanaian, the Italian Government states that its inquiries failed to confirm that the Ghanaian concerned had been beaten by the police. The photograph reproduced by Amnesty International had allegedly not been taken at Fiumucino Airport and bears neither the names of a witness nor the address of the Pole who took it. The Italian Government considers that the complainant had rather been beaten up in his own country in January 1997 and as a result received medical care in February 1997.

62. As regards the complaint by the woman who was the victim of xenophobic acts and insults, the Italian Government informed the Special Rapporteur that the case between the plaintiff and the police officers whom she resisted when they tried to arrest her was at present being heard. The Italian Government promised to keep the Special Rapporteur informed of any further developments.

Special Rapporteur's observations

63. The Special Rapporteur is grateful to the Italian Government for its cooperation and is awaiting with interest the outcome of this case.

(d) Japan: Communication dated 7 August 1997

64. The Special Rapporteur communicated to the Japanese Government allegations about messages of a racist character being sent over the Internet. These allegations had been transmitted to him by the International Movement against All Forms of Discrimination and Racism. The xenophobic messages broadcast by the "Association for the protection of the Japanese" were directed particularly at members of the Burakumin minority (A/52/471). The Japanese Government replied to the Special Rapporteur on 24 October 1997.

Reply from the Japanese Government

65. The Japanese Government provided the following information concerning the above allegations:

> "(i) Case 1997/1: The Ministry of Posts and Telecommunications has provided the following information concerning this matter: in June 1997, the 'Association for the protection of the Japanese' of Osaka created a home page of a discriminatory nature, comprising slander and insults directed at the Buraku, handicapped persons and women. This text was eventually deleted by the Internet service provider who had received complaints from other users.
>
> "(ii) Case 1997/2: The following incidents, which might be regarded as being related to the point under consideration, were brought to the attention of the Ministry of Posts and Telecommunications: in June 1997, a message promoting the sale of the opuscule 'Buraku Chimei Sokan' was distributed over 'Cable Net', a service managed by an association called 'Japanese Information Network', which had installed a PC network at Osaka. An inquiry is under way to determine whether this message is still being distributed."

66. The Japanese authorities have taken the measures described in section (i) in this connection, and self-censorship by local service providers has proved effective in putting an end to discriminatory practices on information networks. However, the authorities are concerned that messages of a discriminatory nature or other unlawful or harmful information, such as obscene or violent pictures or information, continue to appear on information networks.

67. The Government feels it necessary to emphasize that persons using the Internet must display an even greater sense of ethics than when they use other media, since the sender assumes complete legal responsibility for the information he circulates. However, the question of the legal regulation of the distribution of unlawful or harmful information must be examined with care, taking due account of the need to ensure freedom of expression and the secrecy of communications. In the Japanese Government's opinion, the measures adopted by other countries must also be taken into account in view of the transnational nature of the Internet.

Special Rapporteur's observations

68. The Special Rapporteur thanks the Japanese Government for its cooperation and the measures taken to curb the use of the Internet for racist purposes. He hopes that the Japanese authorities, in view of their country's lead in information technology, will take the initiative in organizing consultations and concertations with the most advanced countries, which are developing the information network at a rapid pace, particularly in view of the very worrying problem of the exploitation of the Internet for racist or xenophobic purposes.

(e) Spain

69. The non-governmental organizations "Asociación Pro-Derechos Humanos de España", "Asociación Pro-Derechos Humanos de Andalucía" and "SOS Racism" have drawn the Special Rapporteur's attention to the Spanish Government's expulsion and refoulement in June 1996 and January 1997 of 103 nationals of various African countries from the towns of Melilla and Ceuta and the readmission to the Kingdom of Morocco of 35 nationals of various African countries of the Sub-Saharan region who had been in the Calamocaro camp at Ceuta.

Reply from the Spanish Government

70. The Spanish Government points out that the foreigners covered by its expulsion and refoulement action had been illegally on Spanish territory, and that at all times legal procedures in respect of their refoulement were complied with; it adds that none of these foreigners had requested asylum. The internment of some of these persons in the Aliens Centres at Malaga and in the Centre Euro-latino-américain de la jeunesse de Mollina (CEULAJ) was authorized by a judicial decision. The operation was carried out in cooperation with the Government of Guinea Bissau, which "had undertaken to establish the identity of the foreigners, provide them with papers and return them to their true countries of origin, although it did not do so immediately ...". Thirty-five of the foreigners were readmitted to Morocco on 23 January 1997. The communication adds that: "With respect to the stay of

these foreigners in Morocco, it should be stated that, in accordance with the provisions of article 5 of the Agreement concluded between Spain and the Kingdom of Morocco on 13 February 1992 concerning the movement of persons and the transit and readmission of foreigners who entered the country illegally, Morocco must ensure that any foreigners readmitted are sent to their country of origin or to the country in which they began their journey inasmuch as they do not have the right to remain on Moroccan territory. Lastly, the Spanish Government states that "the facilities of the centres in which immigrants from the Sub-Saharan area are accommodated in the towns of Ceuta and Melilla, the Calamocaro camp and the Granja Agricola, have been improved and transformed in the course of this year to such an extent that it may now be said that the living conditions of these foreigners in these two towns are fair ...". A reception and assistance programme is being carried out in the peninsula by the Ministry of Labour and Social Affairs with the help of non-governmental organizations.

Special Rapporteur's observations

71. The Special Rapporteur thanks the Spanish Government for this information and is grateful for the arrangements it has made to improve the living conditions of the foreigners pending their refoulement or expulsion to the holding towns of Ceuta and Melilla. He would appreciate details about what ultimately happens to the persons concerned.

(f) Governments which have not yet replied

72. In his last report to the Commission (E/CN.4/1997/71), the Special Rapporteur mentioned communications addressed to the Governments of several countries transmitting allegations about racist incidents, acts of racial discrimination and xenophobic and anti-semitic demonstrations reported in their countries. Apart from the two countries mentioned above which were on the list (India and Italy), the others have not yet replied to the Special Rapporteur's communications. These countries are Angola, Australia, Austria, Canada, Côte d'Ivoire, France, Indonesia, Israel and the Russian Federation. The Special Rapporteur deplores this lack of cooperation on the part of these countries and appeals to them to cooperate constructively in respect of the allegations which have already been submitted to them, which in no way constitute accusations and whose clarification will enable him to fulfil the mandate entrusted to him by the Commission on Human Rights.

VI. REPLIES TO THE SPECIAL RAPPORTEUR'S GENERAL REQUEST FOR INFORMATION

73. On 26 May 1997, in accordance with paragraph 13 of resolution 1997/73 of 18 April 1997, the Special Rapporteur addressed a circular letter to Governments and non-governmental organizations requesting them to provide him with information relevant to the fulfilment of his mandate.

74. The following States replied to the Special Rapporteur's letter: Brazil, Cyprus, Cuba, Denmark, Ecuador, Germany, Mexico, Paraguay, the Russian Federation, Sweden, Sudan, Turkey and Zimbabwe. Their replies describe the measures they have taken to curb racism and other similar practices.

VII. REPLIES OF GOVERNMENTS TO THE SPECIAL RAPPORTEUR'S REQUEST FOR INFORMATION

(a) Cyprus

75. The Government of Cyprus informed the Special Rapporteur that Law No. 11 (III) adopted in 1992 in application of the International Convention on the Elimination of All Forms of Racial Discrimination, which it had ratified in 1967 (Law No. XII of 1967), made all acts of discrimination punishable; the provisions of the Convention are respected by the Government of Cyprus and have been included by the Ministry of Education and Culture in teaching materials against racism; Cyprus knew of no victims of racism who needed rehabilitation.

Special Rapporteur's observations

76. The Special Rapporteur would appreciate receiving copies of the legislation and regulations in force in Cyprus.

(b) Guyana

77. The Government of Guyana informed the Special Rapporteur that the Administration has financed a parliamentary body to establish a commission on interracial relations and to promulgate legislation governing such relations in Guyana. This parliamentary body will first prepare a White Paper for submission to Parliament and then present the draft law. In this White Paper the Administration assumed the firm commitment to deal with the consequences of racial discrimination and racism and to use all necessary means to do away with this socially inadmissible attitude.

78. On the administrative level, the authorities have established, within the Government itself, a service specifically responsible for dealing with allegations of racial discrimination in employment. The Government also wholeheartedly supported the decision of one of the four civil service trade unions to create its own interracial relations body.

Special Rapporteur's observations

79. The Special Rapporteur welcomes these very promising measures and would appreciate receiving documentation about the legislation in question and the way it is actually being implemented.

(c) Turkey

80. The Permanent Mission of the Republic of Turkey to the United Nations Office at Geneva addressed an information note to the Special Rapporteur recalling the active role played by Turkey in the preparation and adoption of resolution 1997/73 by the Commission on Human Rights. Turkey was engaged in a general analysis of racism, racial discrimination and xenophobia in the contemporary world; it invited the Commission to provide the Special Rapporteur with "all necessary assistance and resources to enable him to carry out his full mandate".

Special Rapporteur's observations

81. The Special Rapporteur is gratified by this reaffirmation of support by a State which has consistently upheld his mandate. The information note is available for consultation in the Office of the High Commissioner for Human Rights.

(d) Russian Federation

82. The Russian Federation states that the Russian Constitution contains provisions prohibiting incitation to national, racial or religious hatred and propaganda in favour of discrimination, hostility or violence. The communication states that "The new Russian Penal Code provides for administrative and penal sanctions in cases of violation of the principle of the equality of citizens on grounds of race, nationality or other considerations ... There are a number of non-governmental organizations and associative movements in Russia that combat the propagation of racism, racial discrimination, xenophobia and anti-Semitism. Examples are the Anti-fascist Committee and the Russian Jewish Congress".

Special Rapporteur's observations

83. The Special Rapporteur welcomes these measures and would appreciate receiving all the documents relating to them (constitutional, legislative and administrative texts and, if possible, judicial decisions).

(e) Zimbabwe

84. The Government of Zimbabwe states that the Charter of Rights contains provisions curbing discrimination, including discrimination based on race (art. 23 of the Constitution of Zimbabwe). The Government of Zimbabwe intends introducing legislation to curb discrimination; it is of the view that the draft law on the subject should prohibit discrimination based on political opinion, beliefs and sex in a variety of contexts.

Special Rapporteur's observations

85. The Special Rapporteur would appreciate receiving documentation, when available, on the measures taken in Zimbabwe to curb contemporary forms of racism, racial discrimination, xenophobia and related forms of intolerance.

(f) Cuba

86. The communication from Cuba contains an analysis of the situation as regards racism and the programme of education envisaged. The communication states that "In the Republic of Cuba there are no indigenous populations or immigrant workers and the population is of a mono-ethnic nature, 98 per cent possessing clearly-defined basic cultural traits, which does not mean that the society is not multiracial. The triumph of the Revolution led to the destruction of the institutional basis of racism as well as all forms of discrimination; racial prejudice was reduced to relatively insignificant proportions and conditions were created that limited the danger of such prejudices turning into discriminatory social behaviour, since the policy of

curbing all forms of discrimination is not only embodied in the Constitution but also reinforced by a broad range of supplementary legislation, and by systematic measures to promote equality of opportunity ensuring the effective enjoyment of the rights and guarantees proclaimed in that legislation.

87. "At the present time there remain in Cuba only a few isolated cases of racial prejudice which are manifested only in private family circles, and usually in relations between engaged couples or spouses and whose deep-rooted causes are of a historical and sociocultural nature, since the 37 years during which the policy to curb discrimination has been implemented are not enough to efface all secular stereotypes and the structure and interaction of the family do not change as rapidly as the legal and political measures adopted by the State. Nevertheless, these prejudices are not based on assumptions characteristic of racism as an ideology in other contexts, namely, the idea that there are innate differences between biological types." This communication adds that "the other ethnic groups present in Cuba in the form of small communities or families account for less than 1 per cent of the population".

88. This year the Cuban Government organized a national programme including numerous sociocultural events to commemorate the 150th anniversary of the arrival of the first Chinese in Cuba.

89. The Government has also reinstated human rights education: "As regards education as a means of preventing racism, civic education has been reinstated as a subject in the general education system starting from the academic year 1988-1989, and has continued to be improved; classes deal with human rights issues, especially the thrust of the Universal Declaration of Human Rights. Cuban history classes have also been reviewed, and the curriculum now includes teaching on the origins and ethno-racial interactions that led to the formation of the Cuban people and present-day Cuban nationhood ...".

Special Rapporteur's observations

90. The Special Rapporteur is glad of this highly informative news and welcomes the Cuban Government's endeavours in human rights education. He hopes to receive documentation on the situation and on current legislation pending an invitation from the Government to visit the country.

(g) Paraguay

91. By communication dated 28 July 1997, the Government of Paraguay informed the Special Rapporteur that "not a single case of anti-Semitism, racial discrimination or racism affirming the superiority or privilege of one's own race by disdain for and persecution of others [was] to be found in Paraguay, particularly in reference to a numerically large minority or a minority with economic influence". There was, on the other hand, "a certain indifference - as of a spectator rather than participant". The communication went on to state that the Chamber of Deputies had "by a large majority approved two draft statements rejecting and condemning the ill-treatment inflicted by Argentine gendarmes on Paraguayans and a xenophobic bill on migration currently before the Chamber of Deputies in the Argentine Congress". It also mentioned

constitutional provisions (articles 73 and 74) on equal access to education and the need to remove discriminatory material from school books, as well as constitutional and legislative provisions in favour of women and children.

92. In response to a suggestion from the Church Committee for Emergency Assistance, there were plans to teach human rights in the armed forces in order to promote and entrench positive attitudes within the military and encourage respect for human rights. Also according to the communication, the situation of indigenous peoples in Paraguay was troublesome (cf. the Rural Welfare Institute and the Paraguayan Indigenous Institute): "While the legislative situation in Paraguay is very encouraging, since it is governed by the law and Constitution, the situation of the indigenous peoples is at present typically one of poverty and neglect". Bills to improve the situation are in preparation.

Special Rapporteur's observations

93. The Special Rapporteur is grateful to the Paraguayan Government for this information: he looks forward to receiving as much documentation as possible on the question of racism, racial discrimination and xenophobia in Paraguay, on the measures adopted, and on their implementation.

(h) Mexico

94. In its communication, the Mexican Government, after deploring the proliferation of new forms of racism and racial intolerance (reflected in a tendency in different sectors of society to apply new policies based on racial, cultural or national superiority or exclusiveness or in government policy issuing from institutions, individuals or groups with different social outlooks), expresses concern at the fact that these "racist tendencies target migrant workers and their families, especially now that transboundary migrations have become commonplace all over the world ...".

95. The Mexican Government "believes that the struggle against racism and, hence, respect for the rights of all migrants, irrespective of their status, should be given priority in the overall treatment of the migratory phenomenon, both bilaterally and multilaterally, and in the development of national migration policies". It evinces particular concern for the rights of foreigners entering Mexico, especially those who do so illegally, which makes them more vulnerable wherever they are in the world. The Mexican Government's approach to migration, links intolerance and racism closely to the promotion and protection of the human rights of all migrants, regardless of their status. The Government goes on to list the legislative and administrative measures taken in favour of migrant workers (establishment in 1995 of a migrant protection programme with the objective of taking measures to defend and protect the human rights as well as the physical and material integrity of migrants in Mexico, regardless of their status or nationality, particular attention being given to the border areas. A Human Rights Guide for migrants has been produced by the National Human Rights Committee and the Ministry of the Interior, with assistance from the National Migration Institute (related to the publication of a work on the legal framework and operation of migrant reception centres in Mexico)). The Government emphasizes bilateral cooperation in this domain with the United States (Joint statement on

migration dated 7 May 1997 by the Presidents of Mexico and the United States, in which the two men committed themselves to protect human dignity within a comprehensive vision of the phenomenon of migration. They undertook to accelerate efforts to protect the human rights of migrants and pursue vigorously the administration of justice in situations in which migrants registered complaints concerning unlawful actions. They also undertook to respect constitutional guarantees in the implementation of immigration laws, and migrants' right to due process in the application of immigration laws). Lastly, the Mexican Government refers to the action it has taken with regard to migrant workers from Latin America and the Caribbean, farm workers in particular, in order to eliminate racism and discrimination against them and their families. Reference is also made to multilateral, particularly regional, cooperation.

Special Rapporteur's observations

96. The Special Rapporteur welcomes these initiatives and wishes them every success. The communication from Mexico is available at the Secretariat.

(i) Ecuador

97. The Ecuadorean Government "regards the struggle against racism as a reality and a challenge for the international community", and believes that "priority must be given to the restoration of the primacy of law, the protection of States, and peace and harmony in inter-ethnic relations". Ecuador "recognizes the right of ethnic groups to protection of all the characteristics necessary for the preservation of their cultural identity". The Constitution (1996) and current legislation ensure the equality of all before the law. The Penal Code expressly bans incitement to acts encouraging racial discrimination, the perpetration of such acts, and the dissemination of ideas based on the superiority of one race over another or on racial hatred. The Ecuadorean Government has set itself the priority of preserving and strengthening the cultural heritage of the country's ethnic groups and combating discrimination which strikes at their cultural identity or existence as indigenous peoples ... The rights of Afro-Ecuadorean groups are guaranteed: the same civil and political rights accorded to other citizens are granted and applied to them. The Afro-Ecuadorean community is particularly conspicuous in the sporting and cultural fields. A representative of that community was elected Miss Ecuador in 1996.

Special Rapporteur's observations

98. The Special Rapporteur thanks the Government of Ecuador for the information in the document, which is available at the Secretariat. Given this information concerning government measures and other information already received at the Office of the High Commissioner for Human Rights, the Special Rapporteur hopes that the Ecuadorean Government will invite him to visit the country so as to observe on the spot the situation and the efforts Ecuador is making.

(j) Guatemala

99. The information supplied by the Government of Guatemala in reply to the Special Rapporteur's request concerns the action taken in Guatemala since the peace negotiations, which led on 29 December 1996 to the signature by the Government of the Republic and the Guatemalan National Revolutionary Union of the Accord for a Firm and Lasting Peace.

100. The first part of the report covers the historical background to the neglect suffered by the indigenous peoples of Guatemala until the Accord on the Rights and Identity of Indigenous People was signed.

101. The second part concerns the main features of the Accord, including action to end the discrimination that still exists, legally and in fact, in Guatemala. It also covers the commitments made by the Government to eliminate such behaviour, which is flatly contrary to the fundamental rights of the indigenous peoples, in the future.

102. The third part of the report covers progress in the implementation of the Accord, which is still very limited because of the recentness of the Accord and the size of the tasks it entails.

Special Rapporteur's observations

103. The Special Rapporteur welcomes this important Accord safeguarding peace, human rights and non-discrimination in Guatemala. The very interesting report is available at the Office of the High Commissioner for Human Rights. The Special Rapporteur would like to be kept regularly informed of how the situation develops, in accordance with his mandate, so that he can report to the Commission on Human Rights.

104. In conclusion, the Special Rapporteur would like to urge all member States to communicate to him, with a view to the constitution of a corpus, all the legislation (constitutional provisions, laws, regulations etc.) they have passed against racism, racial discrimination, xenophobia and anti-Semitism, in anticipation of the World Conference on Racism, Racial Discrimination, Xenophobia and related Intolerance.

VIII. IMPLEMENTATION OF RESOLUTION 1997/74 ON RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

105. In part IV, paragraph 37, of resolution 1997/74 of 18 April 1997, entitled "Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and follow-up to his visits", the Commission on Human Rights requests the Special Rapporteur to include in his report to the Commission at its fifty-fourth session, under the same agenda item, a "comprehensive analysis of the implementation of this section of the present resolution".

A. Persisting difficulties in the execution of the mandate

106. The lack of both staff and material resources has somewhat hampered the Special Rapporteur's actions. From this point of view, resolution 1997/74 has produced no effect on either the Office of the High Commissioner or the

Secretary-General. The specialist programme staff responsible for assisting the Special Rapporteur and following up his mandate from day to day are called upon to perform other tasks and sent on mission to the field; the assistants, devoted and competent though they are, have to attend to other mandates and the secretary handles several dossiers and mandates at once, since submission dates for periodic reports are binding and apparently more important than the substance of the reports themselves. Contacts have been relatively few and far between. It must be hoped that, with the new High Commissioner for Human Rights and the current restructuring, things will change and the Special Rapporteur will be able to carry out his mandate in appropriate and more humane circumstances.

B. Follow-up to field visits: legislative and judicial measures taken or envisaged by Governments

107. As stated in his report to the General Assembly, the Special Rapporteur has been informed of measures taken or envisaged by the Governments of countries he has visited, such as Germany, Brazil and the United States of America.

108. Other countries, such as the United Kingdom (mission report in 1995), France (mission report in 1995), Colombia (mission report in 1996) and Kuwait (mission report in 1996), have not yet informed the Special Rapporteur what action they have taken following his visits.

(a) Germany

109. In his report to the General Assembly (A/51/301), the Special Rapporteur noted observations made by the German Government on a number of paragraphs of his report to the General Assembly at its forty-ninth session (A/49/677). He thanked the German Government for its clarifications regarding the alleged incidents of racial discrimination brought to his attention and congratulated it on the measures taken to punish the offenders and to improve, through appropriate action, the situation regarding xenophobia and racial violence. He also encouraged the German Government to pursue its efforts to curb xenophobia and racial violence and to maintain its exchanges with him.

110. In this context and in response to the Special Rapporteur's request for information on the measures taken or envisaged by Governments to combat contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the German Government sent a communication with information on the measures taken, on 30 July 1997. This contained information on the following: statistics on racially motivated violence against migrant workers and their families and other socially vulnerable groups; the responsibility of the media (including the Internet) in inciting acts of racially motivated violence; social measures to eliminate all forms of racism, including the organization of the European Year Against Racism and educating people to be tolerant; the legal situation in the area of racism and racial discrimination (status of criminal law); and the policy for integrating foreigners and granting compensation for victims of acts of violence in the Federal Republic of Germany.

111. The document relating to this communication may be consulted at the secretariat (Office of the High Commissioner for Human Rights). The Special Rapporteur's attention was particularly caught by measures aimed at combating and preventing a new kind of contemporary form of racism, namely the use of the Internet for purposes of racism and racial discrimination. In that connection, the German Government provided the following information:

> "Recently, this has also included the so-called new media, for instance, on-line services which can be accessed through modern information and communication technologies. The legal situation can be described as follows: anything which is harmful or even punishable in an 'off-line' form must not be assessed or treated differently once it is presented 'on-line'. However, the legal and investigative possibilities are restricted, mainly due to the anonymous and frequently international dissemination of information (international networks). The Internet is a typical example of a global information network. In late 1996, the Federal Government adopted a Federal Bill Establishing the General Conditions for Information and Communication Services. Following the parliamentary debate, the Bill will come into force on 1 August 1997. The Bill lays down the basic legal terms for the provision and use of the new information and communication services. It lays down the responsibility of the so-called providers, and contains amendments to the Penal Code and to the Act on Administrative Offences and specific youth protection provisions, as the Bill extends the Act Concerning the Distribution of Publications Harmful to Young Persons to the new information and communication services. The Federal Government has thus made clear that it actively counteracts the portrayal of violence in the new media." The Government goes on: "The Bill is based on the principle of freedom of access. It reflects the fact that the responsibility of those concerned needs to be regulated, with the providers' responsibility for their own content being governed by general statutes. The common aim should be to encourage Internet providers - both nationally and internationally - efficiently to filter out illegal information on the Internet on a voluntary basis. An unequivocal identification procedure for all Internet users worldwide would be required, so as to ensure - both nationally and internationally - that information which is relevant from a criminal law point of view is not disseminated via the data networks. This procedure would be employed at certain nodal points, for instance, where the information is fed in by the providers ... Industry is called upon to develop such safe systems and secure them internationally. However, the terms and systems of criminal law also need to be harmonized.

112. "When asked about the connection between the portrayal of violence in the media and the actual use of violence, the Federal Government has several times appealed to those responsible to limit the portrayal of violence. However, owing to the freedom of the press, broadcasting and films which is enshrined in article 5 (1), second sentence, of the Basic Law, the State must not interfere with, or exert an influence on, the content of the media. There is also a *ban on censorship*, so that media content cannot be checked in detail. Therefore, the Federal Government can only appeal to the responsible

media professionals not to publish any harmful or punishable content and, equally importantly, not to contribute to the escalation of violence by dramatizing specific events."

(b) United States of America

113. Following his previous reports and recommendations, the Special Rapporteur was pleased to learn of President William J. Clinton's initiative on race, "One America in the 21st Century", in June 1997. The White House information service issued the following communiqué: 9/ "San Diego. President Clinton called on Americans to join him over the coming year 'in a great and unprecedented conversation about race'". At the Commencement ceremony of the University of California at San Diego, on 14 June, President Clinton focused on race relations and described a plan to promote dialogue in every community, to confront and work through the issues, to recruit and encourage leadership at all levels to help breach racial divides. "Of all the questions of discrimination and prejudice that still exist in our society", he said, "the most perplexing one is the oldest and in some ways today the newest: the problem of race." "Over 30 years ago, at the high tide of the civil rights movement, the Kerner Commission said we were becoming two Americas, one white, one black, separate and unequal," President Clinton continued. "Today, we face a different choice: will we become not two, but many Americas, separate, unequal and isolated? Or will we draw strength from our people and our ancient faith in the quality of human dignity, to become the world's first truly multiracial democracy? That is the unfinished work of our time, to lift the burden of race and redeem the promise of America."

114. According to the press release issued on 12 June 1997 by the White House information service, the goals of the President's initiative are:

"I. To articulate the President's vision of racial reconciliation and a just, unified America;

II. To help educate the nation about the facts surrounding the issue of race;

III. To promote a constructive dialogue, to confront and work through the difficult and controversial issues surrounding race;

IV. To recruit and encourage leadership at all levels to help bridge racial divides;

V. To find, develop and implement solutions in critical areas such as education, economic opportunity, housing, health care, crime and the administration of justice ...".

115. The elements of this initiative are: the establishment of a diverse seven-member advisory board which will examine the current state of racial discrimination and recommend appropriate corrective measures to the President; a nationwide campaign by the President to raise public awareness; outreach to community leaders, businessmen, state and local officials, members of

Congress, business leaders and individuals, encouraging them to become involved in reconciliation and community building projects; and a President's Report to the nation on the status of the race issue.

116. The President's Report, to be issued at the end of September 1998, is to present his vision of One America, including an assessment of the growing diversity of the nation, and the results of the President's consultations with the Advisory Board; to reflect the work done during the first year of implementation of the initiative, including the conversations and suggestions made at meetings and other venues; to report on how the nation has evolved on the issue of race over the last 30 years, among other things, by studies commissioned for the initiative; and to make recommendations and propose solutions enabling individuals, communities, businesses, organizations and government to address difficult issues and to create a society built on a sounder basis.

117. The Special Rapporteur is deeply appreciative of this step taken by the United States Government, which is a response to the recommendations he made in his report on that country in 1994.

(c) France

118. In his report to the fifty-first session of the General Assembly (A/51/301) the Special Rapporteur referred to the increased severity of the Pasqua/Debré laws governing foreign residents and the determination of the French authorities to adopt measures designed to strengthen control over immigration by non-Europeans. The measures then envisaged included making the issuance of short-stay visas more systematically subject to proof of health insurance (a formality which would be required of nationals of countries where the "migratory risk" was high; improving the identification of visa applicants from those countries; reforming the procedure for the issuance of the "certificat d'hébergement" (inter alia, by requiring the provider of accommodation to give notice of the visitor's departure); restricting hospital care for illegal immigrants to "emergencies" or to diseases likely to be contagious; and extending to 40 days the period of detention for persons who entered France illegally.

119. The Special Rapporteur had emphasized the discriminatory nature of the proposed measures. He welcomed the new measures recently envisaged by the new French Government. 10/ These include regularization of the status of certain categories of undocumented aliens 11/ and the drafting of a preliminary bill on the entry and sojourn of foreign nationals in France. This preliminary bill contains provisions designed to facilitate the sojourn of foreign nationals and the granting of visas, the latter with particular reference to researchers, students and persons with strong ties to France (parents, descendants, spouses, etc.). Another bill, on nationality, currently under discussion in the French Parliament, seeks to revert to the ius soli system.

120. All these measures are still under discussion. However, they appear to reflect a trend that differs markedly from the approach which governed the adoption of the Pasqua/Debré laws. The Special Rapporteur welcomes this promising development, even though it is controversial; he hopes that these

new measures will be improved on and that the laws and regulations which will emerge will be based on the principle of respect for the dignity of the human person and cooperation among peoples.

(d) Brazil

121. In his report to the fifty-first session of the General Assembly (A/51/301), the Special Rapporteur referred to the dialogue established between the Government of Brazil and himself after the publication of his report on his mission to Brazil on 3-17 June 1995 (E/CN.4/1996/72/Add.1). In the context of that continuing dialogue he has received the following communication from that Government.

(i) "[...] the Brazilian Government has been giving continuous priority to the implementation of its commitments relating to the struggle against racial discrimination and inequality of opportunities. In this sense, the first anniversary of the National Programme for Human Rights, commemorated on 13 May 1997, was the occasion for an evaluation of the results and progress achieved concerning the promotion and protection of human rights in general, and the promotion of the Black population in particular.

(ii) The integrated work of government and civil society has given great dynamism to the Inter-ministerial Working Group for the Promotion of the Black Population, created by Presidential Decree of 20 November 1995, which was assigned the task of formulating public policies for the promotion of the rights of Afro-Brazilians. Among the achievements registered in this first year of work, the following are to be highlighted:

- Creation of the National Programme to Combat Sickle-cell Anaemia (a genetic disease affecting mainly individuals of the Negro race);

- Inclusion of the item race/colour in death and birth certificates;

- Inclusion of the item race/colour in the school census and in all statistical surveys in the field of education;

- Submission of studies and proposals for the implementation of article 68 of the Temporary Constitutional Provisions Act concerning the granting of ownership titles to the occupiers of the remaining Quilombo lands, like the titles already issued in favour of the communities of Pacoval and Agua Fria (state of Pará);

- Proposal for programmes on TV Escola (the educational television channel) aimed at the revision of Brazilian history from the point of view of the African contribution to Brazilian social formation;

- Re-evaluation of textbooks distributed to students of primary and secondary schools all over the country; the re-evaluation exercise resulted in the exclusion of publications containing prejudices and formal errors, as well as discrimination or stereotypes based on race, colour or gender;

- Participation in the elaboration of the 'National Curriculum Parameters', under the aegis of the Ministry of Education.

122. It is worth mentioning also the elaboration by the Ministry of Justice, through the National Archives and the National Secretariat for Human Rights, of a draft 'Guide on the sources for the history of the Black in contemporary society'. Knowledge of these sources will facilitate actions by Black entities in defence of their rights and the activities of the State in the establishment of public policies directed at the Black population. Equally important is the effort made by the Ministry of Justice, together with the Centre for Studies on Labour Relations and Inequalities, with the support of the European Union, in the elaboration of a project aimed at the promotion of a wide debate - especially among law operators - about the possibilities and limits of juridical norms in the struggle against racial discrimination and in ensuring equality of opportunities and treatment.

123. The Federal Government has been supporting the activities of the Working Group for the Elimination of Discrimination in Employment and Occupation, set up in the Ministry of Labour by decree of 20 March 1996. The principal actions of the Working Group during its first year of existence may be summarized as follows:

- Convening of a tripartite meeting on the subject 'Implementation of policies aimed at diversity', with the participation of representatives of various corporations (São Paulo, 24 and 25 October 1996);

- Setting up of a subgroup in charge of extending the pilot experiment of the Ministry of Labour in the fight against discrimination to other organs and sectors of the public administration;

- The Ministry of Justice has been giving support to the Ministry of Labour in the development of the programme for the implementation of ILO Convention No. 111 concerning Discrimination in respect of Employment and Occupation;

- Development of projects for the promotion of citizenship and professional training, financed by the Fund for the Support of the Worker;

- Support for the dissemination of Convention No. 111 through interventions made on the occasion of events on discrimination, promotion of equality and human rights organized by different institutions (trade unions, municipalities, non-governmental organizations, Federal and state Governments).

124. Concerning the dissemination of the International Convention on the Elimination of All Forms of Racial Discrimination, it is worth mentioning the publication of the tenth periodic report to the Committee on the Elimination of Racial Discrimination. This joint initiative by the Ministries of External Relations and Justice made possible the dissemination of knowledge about the rights guaranteed in that juridical instrument and contributed to raising awareness about the international obligations of Brazil in the matter. The dissemination of the Convention was helped through seminars held in different regions of Brazil, with the participation of diplomats and officials of the Ministry of Justice.

125. As far as legislation is concerned, it must be noted that the National Congress has approved and the President has sanctioned a law which foresees a penalty of one to three years' imprisonment for those who commit a crime of racism by uttering insults of a racial nature or discriminating on grounds of race, ethnicity, colour, religion or nationality. The principal innovation introduced by this law is to characterize as a crime of racism insults or prejudice in labour or personal relations, thus widening the scope of the previous law on the subject which foresaw sanctions only for cases of racism involving the media and restrictions of access to public places on grounds of race.

126. It should be mentioned also that Law No. 9.455 of 7 April 1997, defining the crime of torture, contains specific reference to the racial question, which demonstrates how the subject has been definitively incorporated in the national agenda. The reference is: 'Art 1 - The crime of torture is characterized when:

A person constrains another using violence or grave threat, with the infliction of physical or mental pain:

(...) c) for reason of racial or religious discrimination'."

Special Rapporteur's observations

127. The Special Rapporteur takes note of and commends the Brazilian Government for these measures. He is, however, concerned about the potentially undesirable effects of including a mention of race on school and birth certificates, as well as other documents, however laudable the original intent (affirmative action). The Special Rapporteur also continues to be concerned about the fate of indigenous peoples, with whom he had a number of working meetings during his mission to Brazil. He hopes to continue the dialogue with the Government on this matter and looks forward to receiving, at the earliest juncture, information about measures taken or envisaged in favour of these peoples.

(e) Australia

128. As mentioned earlier (para. 15) the Special Rapporteur wrote to the Australian Government on two occasions to elicit a response to allegations contained in two communications which he had received in 1996 concerning Aborigines and the "Hanson syndrome". Having received the observations of the Australian Government, the Special Rapporteur proposes to undertaken a mission

to Australia. The Government of that country has accepted his request. The Special Rapporteur thanks the Australian Government for its cooperation and hopes to learn at first hand about the situation, and in particular that of Aborigines and foreigners.

129. In the meantime, the Special Rapporteur has received information about an Australian Government initiative outlined in a speech 12/ by the Prime Minister, Mr. John Howard, at the Australian Reconciliation Convention in Melbourne on 26 May 1997. The Prime Minister said in his speech:

> "This Convention is a unifying event. It is an occasion for positive commitment to the future and a common avowal of the destiny we all share as Australians. It is an occasion also for frank speaking, and there has been some today quite appropriately, and in the same spirit I intend to speak frankly, although I hope on all occasions respectfully. Since the inception of the Council in 1991, the Coalition Parties have committed themselves to the reconciliation process and today, on behalf of the Liberal and National parties, I reaffirm that commitment.

130. "At the heart of this reconciliation process among Australians lie three fundamental objectives. The first is a shared commitment to raise the living standards and broaden the opportunities available to the most disadvantaged group in Australian society - and that is indigenous Australians - and that must be done as part of a broader commitment to providing equality of opportunity to all Australians. A second objective is a realistic acknowledgement of the interrelated histories of the various elements of Australian society. And a third is mutual acceptance of the importance of working together to respect and appreciate our differences and to ensure that they do not prevent us from sharing the future."

Special Rapporteur's observations

131. The Special Rapporteur welcomes this political commitment by the Australian Government. He encourages the Government to translate this commitment into concrete and effective action by adopting appropriate legislative or other measures, particularly measures favouring Aborigines.

V. CONCLUSIONS AND RECOMMENDATIONS

132. In his previous report to the General Assembly (A/52/471), the Special Rapporteur noted the alarming increase in manifestations of racism, racial discrimination, xenophobia and related intolerance. At the global level, the situation has improved very little. On the contrary, the use of new communication technologies, particularly the Internet, has led to new forms of racism and racial discrimination.

133. Despite the governmental, legislative or judicial measures taken or envisaged in some countries to combat racism and racial discrimination - measures which the Special Rapporteur welcomes - the situation in this area continues to be cause for concern and requires a more proactive approach at the national and international levels in order to stem the proliferation of

these evils. The Special Rapporteur already made a number of specific recommendations on this matter in earlier reports. He takes this opportunity to reiterate them and once more urges that they be properly implemented.

134. However, the Special Rapporteur wishes once again, as he did in his last report to the Commission on Human Rights (E/CN.4/1997/71), to repeat the following recommendations:

(a) To convene as soon as possible a world conference on racism, racial discrimination and xenophobia and to include the question of immigration and xenophobia in its agenda and, to that end, to organize, in cooperation with the Office of the High Commissioner for Human Rights, UNESCO or regional organizations or foundations and universities, meetings of experts at the subregional and subsequently regional levels to study the problem in depth on each continent;

(b) To envisage the possibility of action at the international level by immediately beginning studies, research and consultations on the use of the Internet for purposes of incitement to hatred, racist propaganda and xenophobia, and to draw up a programme of human rights education and exchanges over the Internet on experience in the struggle against racism, xenophobia and anti-Semitism;

(c) To request States which have not already done so to ratify the International Convention on the Elimination of All Forms of Racial Discrimination and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;

(d) To request States which do not yet have such institutions to establish human rights committees with responsibility in particular for studying the question of racism and racial discrimination and for securing adoption of appropriate measures;

(e) To request countries he has visited to keep him regularly informed of the steps they have taken to follow up on his field mission.

Notes

1/ Jeune Afrique No. 1916, 24-30 September 1997.

2/ European Commission press release No. 43/97, Brussels, 19 March 1997.

3/ Agence France Presse, 22 October 1997.

4/ Agence France Presse, 14 August 1997.

5/ Op. cit., (note 3).

6/ Roma Rights (The Newsletter of the European Roma Rights Center), spring 1997.

7/ Publicity document distributed by the Council of Europe at the Geneva Seminar on the Internet and Racism (November 1997).

8/ Chris de Stoop, Vite, rentrez le linge! L'Europe et l'expulsion des "sans-papiers", Paris, Actes sud, 1996, pp. 134-137.

9/ Address given by President Clinton in San Diego on race relations (extracts: diversity is vital, as is offering help to minorities, AXF/04) (3400), the White House, Office of the Press Secretary, San Diego, California.

10/ Libération, 26 August 1997.

11/ Circular of 24 June 1997 concerning reappraisal of the status of certain categories of undocumented aliens, Journal Officiel de la République Francaise, 26 June 1997, p. 9819.

The following news item appeared in the newspaper Le Monde on Tuesday, 23 September 1997 (p. 12):

"Demonstration in Paris calls for regularization of the status of undocumented aliens: On Saturday, 20 September in Paris, some 2,000 undocumented aliens and their supporters staged a march from the Place de la République to the Opéra, calling for regularization of the status of all undocumented aliens, repeal of the Pasqua/Debré laws, the release of persons imprisoned for non-possession of a residence permit, an end to deportations and the return of deportees. Numerous organizations and associations supported the demonstration, including the Green party, the Movement against Racism and for Friendship among Peoples (MRAP), SOS-Racisme, Droits Devant, the Immigrant Information and Support Group (GISTI), the FASTI, the Human Rights League, the Anti-Racist League (LCR), the Confédération générale du Travail, the Fédération syndicale unitaire and SUD on the trade union side, Act-Up and Action contre le chômage. According to the Ministry of the Interior, as of 31 August, the status of 1,000 undocumented aliens had been regularized, while 89,432 applications were pending in various prefectures. The deadline for submission of applications is 31 October 1997."

12/ Press release from the Office of the Australian Prime Minister, 27 June 1997.